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Floor Debate  
March 25, 2011

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[LB34 LB84 LB105 LB207 LB218 LB255 LB259 LB260 LB283 LB310 LB342 LB366  
LB388A LB388 LB407 LB509 LB543 LB563 LB606 LB621 LB698 LR141 LR142]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for this the fifty-second day of the One Hundred Second Legislature, First Session. Our chaplain for today is Senator Carlson. Please rise. []

SENATOR CARLSON: (Prayer offered.) []

SENATOR LANGEMEIER: Thank you. I call to order the fifty-second day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. []

CLERK: I have a quorum present, Mr. President. []

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Are there any corrections to the Journal? []

CLERK: I have no corrections, Mr. President. []

SENATOR LANGEMEIER: Thank you. Are there any messages, reports, or announcements? []

CLERK: Mr. President, Enrollment and Review reports LB34, LB105, LB207, LB218, LB255, LB259, LB260, LB342, LB366, LB543, LB563, and LB621, all of those reported correctly engrossed. I also have received a couple of reports in the office, reports on the Auditor of Public Accounts and the Investment Council. Those will be on file. And I have

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a lobby report for this week as required by statute, Mr. President. That's all that I have. (Legislative Journal pages 953-954.) [LB34 LB105 LB207 LB218 LB255 LB259 LB260 LB342 LB366 LB543 LB563 LB621]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We will now proceed to the first item on today's agenda, General File, LB84. Mr. Clerk. [LB84]

CLERK: Mr. President, LB84 was a bill originally introduced by Senator Fischer. (Read title.) The bill was discussed yesterday. A priority motion was offered that ultimately did not prevail. I have pending, Mr. President, at this time a second priority motion and that be to recommit the bill to the Revenue Committee. That's offered by Senator Nordquist. (Legislative Journal page 955.) [LB84]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Fischer, you're recognized for 2 minutes to give us a brief opening on LB84. [LB84]

SENATOR FISCHER: Thank you, Mr. President and members of the body. As you heard during discussion yesterday, LB84 is a highway funding bill. We're looking at a half-cent sales tax to be put into a new fund for the next 20 years. This fund is dedicated not just to new construction but also, if need be, to take care of the maintenance and the preservation of our current system. Within this bill, we also have a bonding component. Since we are discussing the bill, we haven't gotten to the amendments. We have a bonding component of \$25 million a year. We have \$15 million a year for the expressway system, and we have \$10 million for cities, \$10 million for counties. I think as you heard in my opening yesterday, that this bill is a commitment to the future of Nebraska. This bill is a commitment to the citizens of this state that we as a Legislature believe in the future of Nebraska. We believe in economic development. We believe in growth. We believe that this economy is going to turn around and we're going to see more economic growth as a result of this bill. There wasn't said much yesterday, but there's over 40,000 jobs in the construction business. Some of the economic

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development bills we've heard don't even begin to come close to that. So I hope that you will consider the bill, will continue debate, and I look forward to the discussion. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Fischer. Senator Nordquist, you're recognized for 2 minutes to open on your motion to recommit to committee. [LB84]

SENATOR NORDQUIST: Thank you, Mr. President and members of the body. I filed the motion to recommit for several purposes. First, we've been hearing more and more certainly as this debate has gone on, the public is, obviously, engaging more and more in this issue. For whatever reason, they weren't there initially but now they're there, now they're concerned, now they're expressing that concern to us. And I think that concern needs to be taken before the committee. Secondly, there's amendments pending that would substantially change the bill. How do we know that those proponents that were there are going to remain proponents under those changes? But the other point that I didn't make yesterday, that I think needs to be made, is on concern of committee members. Speaker Flood, at the beginning of session, got up on this floor and said, we need to stop this shotgun approach to kicking bills out of committee. Well, through my conversations and conversations on the floor, at least three of the people who had voted this bill out of committee have serious concerns about it for different reasons. Some on bonding, some on the amount of money, some on the cap of money. I think that this committee needs to go back and relook at this considering the concerns of those members. I don't know how this bill came out with those concerns. If those three people would have expressed their concerns in committee, there would not have been enough support to get this out. I agree with Speaker Flood that we don't need this shotgun approach to bills. We don't need to be making these changes on the floor but rather that should be done through the committee process. So I think that's where we need to go back and that's where we need to consider. And that's why I filed this motion to seek the public input and to reexamine this legislation before the Revenue Committee before we can move forward. Thank you, Mr. President. [LB84]

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SENATOR LANGEMEIER: Thank you, Senator Nordquist. (Visitors introduced.) You have heard the reopening on LB84 and the motion to recommit to committee. The floor is now open for discussion. Those wishing to speak, we have Senator Nordquist, Conrad, Krist, Lathrop, Mello, McGill, Fischer, and Ken Haar. Senator Nordquist, you're recognized. [LB84]

SENATOR NORDQUIST: Thank you, Mr. President and members. You know, I have a lot of concern about the discussion that we had on the floor yesterday questioning the projections of our legislative Fiscal Office. These are good people, these are the people we hire to give us their best estimate of what the future looks like. And we have people on this floor questioning those assumptions, saying, ah, you know, the report...the paper they put out, the status sheet, that doesn't matter, that doesn't matter. We know things are going to be better. And a lot of those people saying we know things are going to be better aren't going to be the people here in two years to make those tough decisions. When we're forced to either make deep cuts to education and critical human services, or were forced to raise taxes, those people are going to be gone. It's going to be us. It's going to be Senator Harms, Senator Nelson, Senator Wightman, Senator Hansen, Senator Mello, Conrad, and myself. We're going to be the ones that are going to have to be forced in the Appropriations Committee to make those tough decisions. And the returning members of the Revenue Committee are going to have to look at increased revenues. This bill, as it came out of committee, had a \$260 million fiscal note for the next biennium. Some people, when I asked groups why they didn't come in, they go, we didn't think with the situation our state was in any committee would move out a bill with a \$260 million fiscal note in the next biennium. We assumed that just would not happen. And I think that makes a little bit of sense. I don't see Senator Cornett. If she's around...or if Senator Fischer is here, I would like to ask her a question. [LB84]

SENATOR LANGEMEIER: Senator Fischer, would you yield? [LB84]

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SENATOR FISCHER: Yes, I will. [LB84]

SENATOR NORDQUIST: Thank you, Senator Fischer. The best estimates that we have before us in this body is from the legislative Fiscal Office which shows a 5.2 and a 5.1 percent revenue increase in the next biennium. This bill as advanced from committee had over a \$260 million impact in the next biennium, and as amended, I think it would go down to \$250 million, roughly. What projections, what source of information do you have that shows that that available funding will be there? [LB84]

SENATOR FISCHER: Senator Mello, I think...or excuse me, Senator, that was an insult, I apologize. (Laughter) Senator Nordquist...said with love. Senator Nordquist, I would say we have the same projections you do in Appropriations when you make different changes within the budget. You know, I've heard the discussion about the cost of this bill and that its the biggest earmark, which I hope doesn't have the same connotation it does at the federal level, but that it is the biggest earmark in the history of the state and that is not correct. We make these policy decisions as a big change was made with LB1059 when that was passed. It was an earmark of 20 percent of the income tax and it was \$212 million the first year. Decisions are made in here to set priorities, so I'm saying that this would be a decision to set a priority just as TEEOSA was. [LB84]

SENATOR NORDQUIST: Okay. So just to clarify the projections that the Revenue Committee had before when it advanced a bill to earmark or to quarantine off or to prioritize \$260 million in new spending in the next biennium were the same projections that we have from the legislative Fiscal Office, is that correct? [LB84]

SENATOR FISCHER: You know, Senator Nordquist, I don't always like to question the Fiscal Office. There's good people there. You work with them more than I do. You work with them daily, but occasionally they are wrong. That's why we had a special session two years ago. [LB84]

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SENATOR LANGEMEIER: One minute. [LB84]

SENATOR NORDQUIST: Okay. Thank you, Senator Fischer. Well, I think that's very concerning to me that we have other committees in this body that are willing to advance out and to obligate funds two years out based on...without any projection that shows that that money is available. The fiscal note shows that that money is not available, that we're barely able to hang on to the budget we have in the next biennium based on the projected revenues. And we have committees that are moving bills that obligate money two years out that we just don't have. Folks, this is not monopoly money. This is real dollars that we have to come up with. It's not play money. We don't have a printing press in the basement. These are dollars that are coming out of Nebraskans pockets that we have to come up with to pay for this some way in two years. And the best estimates that we have available to us... [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR NORDQUIST: ...as legislators shows we don't have it. Thank you. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Nordquist. Senator Conrad, you're recognized. [LB84]

SENATOR CONRAD: Thank you, Mr. President and good morning, colleagues. So here we are again on LB84, and I think that continues to be a good thing because it is an important policy that deserves full and fair debate and serious consideration. And I want to dovetail a little bit off of what my good friend and colleague, Senator Nordquist, just brought forward in terms of his dialog with Senator Fischer. How we budget, how we plan for the future is based on fiscal analyst's work. It is also based upon the Nebraska Forecasting Advisory Board. This...their mission, their duties, their membership, their operation are laid out in Nebraska statute 77-27156 through 77-27159. And this is important. It's important because we have an objective, nonpolitical set of economic

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advisors who assist the legislative Fiscal Office and the Department of Revenue in preparing for our future. We heard a lot of talk yesterday about how we hope there will be an economic recovery, the likes of which we've never seen before in...really in the history of the state, that will help pay for this and hold everybody harmless. Well, I want to reiterate very clearly. Right now, coming out of the most recent economic recessionary period, this biennium we're operating under 5.6 percent growth. We're looking at a projected growth over the next biennium of 4.3 percent. So we're already going to see less growth than we're seeing right now. And what does 5.6 percent growth in revenue mean today? Today, colleagues, that means deep cuts to provider aids in Human Services. That means cuts to education, that means higher education is held flat, and a plethora of other important programs and services are experiencing devastating cuts after their budgets have already been cut to the bone during the last two biennial sessions and the special session. So that's with 5.6 percent growth today. So with less growth in the future projected, and more obligations being added to the state's checkbook, we really have nowhere to go but deep and devastating cuts, or deep and...or high and devastating tax increases, the likes of which, both options, would not be attractive to our citizenry. So we have the opportunity to take a step back, take a deep breath, and learn more about this bill, and how it got to be to where it is today. Because this is a motion to recommit to committee, I went back and looked at the committee statement. And let's look who came to support this bill. Lobbyists from the Nebraska New Car and Truck Dealers Association, the Omaha Chamber of Commerce, the Lincoln Chamber of Commerce, the Nebraska Bankers Association, the Nebraska Farm Bureau Federation, the Heartland Expressway Association, the city of Omaha, the Nebraska Petroleum Marketers, the Nebraska Cattlemen, the Nebraska Expressways for Economic Development, the city of Norfolk, the Nebraska Chapter of Association of General Contractors, the American Council of Engineering Companies, the Nebraska Association of County Officials, Professional Engineers Association, city of Lincoln, League of Municipalities, Columbus Chamber of Commerce, Nebraska Rural Electric Association... [LB84]

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SENATOR LANGEMEIER: One minute. [LB84]

SENATOR CONRAD: ...Lincoln Independent Business Association, Norfolk Area Chamber of Commerce. All of these people have a sophisticated understanding of our legislative process and we appreciate their input and the hard work they do on behalf of their clientele. But I challenge any member of the committee to show me in the committee record where any of these proponents demonstrated clear and convincing evidence that we're going to see growth above 4.3 percent over the next biennium. Not one if them is an economic forecaster or an economic expert, but lobbyists who are representing their clients interest. And they have a right to be a part of the process and we respect that. But until we have some sort of clear indication that provides a level of comfort for the largest earmark in state history, we can't move forward. I'm looking forward to hearing more on that topic and if we can't get any answer to those important issues, we must recommit this legislation to committee. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Conrad. Senator Krist, you're recognized. [LB84]

SENATOR KRIST: Thank you, Mr. President and colleagues, good morning. I, like many of you, weeded through the e-mail last night on the subject of LB84 and I took those e-mails to heart. I understand the concerns, but I am more interested in the next day and a half to solve the issue at hand rather than to be a naysayer and tell you 48 others, how this can't happen because there's not enough money because it's not a...equal priority with other things in the state, and how we should continual banter back and forth about the fiscal reality of not having enough money. And I think that if you'll...if you just hang with me for just a second. If you'll just hang with me for just a second, I think that what we need to do is exercise our statesmanship at this point and listen...can I have a gavel please? [LB84]



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SENATOR LANGEMEIER: (Gavel) [LB84]

SENATOR KRIST: And listen to what it takes to compromise and get to the point of making a compromise and I think that needs to happen on the mike rather than underneath the side rails or wherever it happens. Because the people in this state have heard yesterday, all day, that this is about kids versus concrete. This is not about kids versus concrete. This is about identifying priorities of infrastructure within the state that are essential to this state. Now I have all due respect for the Revenue Committee. I think that we all in committee do our best job in pushing a product forward. Would Senator Fischer yield to a question. [LB84]

SENATOR LANGEMEIER: Senator Fischer, would you yield? [LB84]

SENATOR FISCHER: Yes, I will. [LB84]

SENATOR KRIST: Senator Fischer, just as a comment. Do you think this needs to go back to committee for further work? [LB84]

SENATOR FISCHER: I am against the recommit motion. This subject came, and the bill came as not surprise to anybody. I spoke about it at our issues conference that we had before session started. I have been in conversations with many of you who have come to me with your ideas. We had a full committee hearing. I don't remember how long but it was hours, and we had an excellent discussion as a committee. So I am definitely voting red on Senator Nordquist's motion. [LB84]

SENATOR KRIST: Thank you. And I think I'm at the same place that Senator Fischer is. In fact, I know I am, because I think we need to solve this thing here on the floor in concentrated, deliberate, substantial, problematic debate about how to get to a point, the right dollar figure coming from the right place to reinforce road structure. And maybe even talk a little bit about the Department of Transportation, Department of Roads in this

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discussion over the next couple of days. I would like to yield the rest of my time to Senator Utter, who I have talked to before. I'd like to hear a little bit about his amendment that we'll never get to unless we pull each amendment up and talk about them substantively today and maybe on Monday. So if Senator Utter would like to take this time, I will yield the rest of my time. [LB84]

SENATOR LANGEMEIER: Minute, thirty-five, Senator Utter. [LB84]

SENATOR UTTER: Well, thank you very much. I would tell you that the amendment that I filed is an amendment to take...to be discussed on Select File. And basically what the amendment does is just reduces the cap to a level, that at least myself personally when I looked at the revenue figures and the revenue projections that come out of the Fiscal Office, it is an amendment that I personally felt a little more comfortable with in terms of the cap amount, and it sets the cap at \$75 million. Genesis for that... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR UTTER: The genesis for that, of course, was to look at the fact that the bonding portion has been taken out of the original bill and the cash flow that was dedicated to the bonding proposal was an amount of \$25 million which would have brought it down to \$100 million. And then just looking at the growth in our figures, the potential growth in our figures which, frankly, may be entirely too optimistic, and they may be right and I hope they are right, but even if they are right, it seemed to me like we were maybe committing a little too much to this in the beginning. And certainly there may be other ideas out there. This is an... [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR UTTER: ...idea I think we can take a look at and that's... [LB84]

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SENATOR LANGEMEIER: Time. [LB84]

SENATOR UTTER: ...and that's where I'm at. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Utter and Senator Krist. (Visitors introduced.) Continuing with discussion on the motion to recommit to committee, those wishing to speak, we have Senator Lathrop, Mello, McGill, Fischer, Ken Haar, Carlson, and others. Senator Lathrop, you're recognized. [LB84]

SENATOR LATHROP: Thank you very much, Mr. President and colleagues, good morning. I'm glad I followed Senator Krist. I have to tell you there's sometimes where I leave this place and I go home and sleep like a baby, and there's other times where I leave this place and I don't. And last night was one of those nights. It might be because of just watching my friends on either side of this issue feel so passionately about it. Some of the things that are being said...but I do have trouble with what's going to happen in two years and I've made that point before. I think that maybe in follow-up to something Senator Krist just got done talking about, and that is the possibility or the prospect that we might try to find some middle ground. Let me suggest something to you and that is, I think that we may be losing sight of something and that is, shortly we'll be rolling out a budget and we'll be debating the budget and this Legislature will be closing a gap of over \$900 million. And they'll do it without a tax increase. And I think that we ought to pause for a minute as we debate money for roads and reflect on the fact that we are doing something very, very significant. That is a very significant achievement. To close over a \$900 million gap without a tax increase anywhere is a significant accomplishment by this Legislature. And it was done by making significant cuts and going through a LR542 process, right? We all went through in our various committees jurisdiction and looked for any program we could eliminate, any information we could pass along to Appropriations so that we could do this. And over in Judiciary Committee, we're looking at closing some courthouses, some county courts. We're not going to fund state aid to schools like we'd like to. That's going to be part of the fix.

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Medicaid kids, mental health, the jails. Those are a lot of things that have taken really significant and consequential hits. And so anybody standing where we're standing today can look to the future and say, when things get better, I want some of that money. We could say that about the courts. Certainly, we have neglected the roads. I agree with Senator Fischer's premise that we need to do something to maintain our investment and improve upon it to provide the roads for farmers to take their products to market and so on. And now we can see a little light at the end of the tunnel and it is very natural that we might look at the things that are of particular interest to us, the things that motivated us to come here to this body and participate in this process, and try to set up our...the things that are of interest to us so that we get when things get better. And that could be, in my case, I, of course, have an interest in the courts and it causes me grave concern to see us closing county courts and diminishing access to the courts. And this could just as easily be a bill to make sure that we dedicated money to keep the courts open two years from now. Senator Fischer, who is a strong advocate for roads, and for reasons that I fully understand, has put this in ahead of everybody else. But this could just as easily be... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR LATHROP: ...Senator Adams putting something in on schools or state aid. And the difficulty is, it's the first one in line and the argument for it is, that we never get taken care of in the process unless we get ourselves a place at the table. And the problem with it is, if we move it in its present form, no one else will when this is over. So there's got to be a balance and there's got to be an approach that leaves room for state aid to education, that leaves room for DD, for mental health, for the prisons, the courts, state aid. And I would encourage everybody maybe this morning, to ramp down the rhetoric just a touch. [LB84]

SENATOR LANGEMEIER: Time. [LB84]

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SENATOR LATHROP: Thank you. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Mello, you're recognized. [LB84]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature, good morning. A couple of comments, a couple of clarifications just for all practical purposes. First, earlier on the mike there was a discussion regarding legislative Fiscal Office in regards to projections and numbers and for the record, the legislative Fiscal Office's projections did not cause the need for a special session in 2009. That is just a simple...either misstatement or just complete error of fact. I think we all know, as Senator Conrad alluded to, we have a very thorough nonpartisan independent process that forecasts our economic revenues in this state. And it was that model that determined that our revenues were lower than our current obligations, which necessitated the need for a special session. That's the first item. The second item, in all due respect, and Senator Krist I consider to be a friend and a colleague and a very serious-minded lawmaker. The underlying issue of this bill is not that our need to solve a problem. We've all acknowledged the problem. The underlying focus of this bill is the commitment to the largest new spending increase in spending item in state history. This is a \$2.5 billion new government spending program, colleagues. A \$2.5 billion new government spending program. It is currently not in our budget, currently not in our fiscal status, and that needs to be the focus of our debate. If colleagues want to look for solutions, we can be introducing bills. Senator Fischer's bill is an Appropriations bill essentially, that went through the Revenue Committee. It obligates existing sales tax dollars, essentially appropriating a half-cent of sales tax dollars to a specific earmark program. That is what it is. To make the assessment that our underlying fiscal, I would say model and underlying fiscal foundation that we rely as an entire independent branch of government through the legislative Fiscal Office, is so out of whack and so unaware of what the wishes and hopes are for our rebound of our economy, is to some extent, I think, it's just...it's unrealistic to say that and it's almost disappointing to hear someone

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say that. Have I disagreed with fiscal notes? Absolutely. But as I've walked through the process when I make those disagreements with the Fiscal Office, they have access to information and able to provide an independent analysis that sometimes we as senators are not able to provide because it's our legislation. And to say that this bill is not really going to cost us \$250 million, or the equivalent of \$2.5 billion in new government spending, is just...it's just not true. It's just not the facts. And I respect Senator Fischer and she, by all means, will acknowledge her amendments are tightening up the bill in the sense of eliminating the bonding component and it caps it at \$125 million per year. That's the reality and there's no disagreeing on that. But to say, or anyone to imply, that the structural revenue in expenditure in balance that currently exists in our budget appropriation's process is not accurate, that's tough for me to stomach. And I'm one, by all means, to question everything in the fiscal process. I do it in committee, I do it on the floor, because I am someone who generally wants to question the facts that we get to ensure that they're accurate. [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR MELLO: Colleagues, we're going to be debating LB84 for a while. And I think the simple notion is this: A failure to recommit this bill to committee makes the assumption and your agreement that in two years we have this \$250 million that we can live without. That you are saying that we do not have this money to operate in two years, which I will remind you, that vote in itself will lead to a much larger discussion. Because there will be amendments that come that determine if we can live without this \$250 million in two years, what is stopping us from not putting that money towards a property tax relief program? What's stopping us from not putting that money towards an income tax cut? [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR MELLO: What's putting us...thank you, Mr. President. [LB84]

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SENATOR LANGEMEIER: Thank you, Senator Mello. Senator McGill, you're recognized. Oh, shoot. Senator Ken Haar, you're recognized. [LB84]

SENATOR HAAR: Mr. President and members of the body. I'm not sure who said this in all of the debate, it's in my notes, but when the revenues are there, the roads will be financed. And the implication is made all along that when the money isn't there, then we will not put whatever amount of money into the roads. But I'm very concerned. A year from now or maybe even this summer I'm going to start going door to door for the next campaign, and I think what people hear here is a promise and they don't read the fine print. They don't hear the fine print that the promise is, you know, we'll fund it if the revenue is there. The promise is, that all of a sudden these new roads are going to start to show up and that we are going to...that this will be a regular funding. Again from the quotes I found on Google, a politician is known by the promises he or she keeps. And I think that's the way it should be. So I want to go to something that I'm very familiar with. Again I'm on two committees. I'm on Education and Natural Resources, so I know a lot about what goes on there, and I know a little about what goes on in all the other committees. I look at the Appropriations Committee as that sort of mysterious committee that sits behind closed doors and gives us mandates and a way. So I want to look at...I want to talk about TEEOSA for a minute. First of all, I don't...I disagree with my friend, Senator Hadley, that TEEOSA is an earmark because TEEOSA is simply the way that we fund...it could...there have been other ways in the past, but the state constitution tells us that we have to fund public education. That's the one mandate, in my understanding, that we have...that the Legislature has for funding, that we fund public education. So right now we use this thing called TEEOSA and it came into being because in the past it was just all of the state aid money divided by the number of students. And there were some school districts, especially in western Nebraska, that had very, very high tax rates, twice or three or four times what it was in the normal school district. And so over time this equalization, this TEEOSA formula was developed. Now, unfortunately, TEEOSA has become known as a promise. And all of us on the

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Education Committee, and I have especially discussed this with several of my colleagues, including Senator Adams and Senator Avery, that it's a little aggravating because the promise was taken not as we were going to fund education and use a formula, but that the TEEOSA formula was the promise. And then it became this whole thing of, well, we're just going to look at TEEOSA like an autopilot and whatever TEEOSA predicts is what we're going to give. And actually this is an ongoing argument. Of course those with an interest in education, and education is my first priority, would like to see TEEOSA be simply an autopilot. Whatever predicts that's what we put in the budget, but we know that that doesn't work. [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR HAAR: Thank you. We have to adjust it. So it's very difficult. Once you put something in process to distinguish the fine print, you know, where is the promise. Now I hear that the promise of LB84 is, when revenues are there, roads will be financed. But that's not the way the public is going to hear it. They're hearing this as, we're going to finance the roads at this new elevated level year after year. Never mind how we're going to have to make the cuts to make that happen and so on. And I think TEEOSA is the perfect example of how we have to distinguish carefully and make it very clear to our constituents the difference between a promise and a method of financing. I have no problems with...well, actually I do with financing roads through the general cash fund. And I'll talk about that later, but... [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR HAAR: Thank you. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Haar. Mr. Clerk, items for the record. [LB84]



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CLERK: Mr. President, just an announcement, thank you. Judiciary will have an Executive Session in 2022 at 10:00; Judiciary at 10:00 in Room 2022. [LB84]

SENATOR LANGEMEIER: Thank you. Senator Carlson, you're recognized. [LB84]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And before I go through the things that I've put together to talk about, I first of all want to say that I may not agree with Senators Conrad and Mello and Nordquist all the time, but I admire their tenacity and I know that when they're ready to do battle and if you're going to beat them, you'd better put on your chin strap and get ready to go and stay with it. What does LB84 really do? I will say, as I did yesterday, we don't know what the bill actually is because Senator Fischer wasn't given the courtesy of fully introducing her bill with the amendments. Now we can all read, I know that. But I'd like to hear what she has to say when given the time to completely introduce what she has. If LB84 becomes law, it forces us to either accept it or find another way to fund it. It requires action. Now some believe that the bill is okay because forcing further budget cuts in two years, which I understand would be there, is appropriate. Some would say government is too big. Government is overcommitted and further cuts are not out of line. That's okay for people to feel that way. Some, like me, don't really want to see these cuts become reality in two years, but believe that LB84 will bring about some creative thinking on solutions that may be workable. Now I have a couple of ideas that I want to seriously pursue in the interim. It will take more time and thought than we have in this session. I think that roads should be funded by type of vehicle and miles driven. I think a combination of sales tax with a refund of Nebraska gas tax as we turn in our Nebraska tax returns would be appropriate. I think that we as citizens could be refunded by the number of gallons we prove we purchased in the preceding year, the Nebraska portion of the gas tax. Are there challenges to these approaches? Yes. Is it possible to work through ideas like these? Yes, if we have the will to do it. In the meantime, LB84 may be the best approach. I hope Senator Fischer is given the time to fully present and explain her bill. I'm against the request to recommit to committee and am currently in support of

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LB84 with or without the amendments. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Gloor, you're recognized. [LB84]

SENATOR GLOOR: Thank you, Mr. President and good morning, members. I'd like to follow up on a couple of comments that I made yesterday, just to reiterate some points that had already been made by some of the senators who spoke. Since coming to this body, it's been clear to me that we have three, perhaps unstated, but have taken positions that lead me to believe that we've got three priorities when it comes to the issue of funding and funding long-term. When it's K-12 education, the concern there being is property tax really the way that we can pay for education for our youth long term. The other is the whole issue of human resources and providers, everything from elder services up to acute care services. I came here in the aftermath of Safe Haven, got involved in discussions about funding for behavioral health. We've had various discussions about a number of things whether it has to do with developmental disabilities in Beatrice, this is a lot more complex of an issue on how we're going to pay for all of these services long-term is an area of concern. And certainly the e-mails that we're getting from people address one of those two areas. But the other area that has been of concern, obviously, is the one that we're finally talking about, roads. And my comment yesterday was, I applaud Senator Fischer for taking control, or at least putting the stake in the ground and saying, this is what I see our solution is for roads. And perhaps once we come to this resolution, once we spend what I consider to be a goodly amount of time, and I agree with Senator Krist, and do so in the open, in a good public form, where we have a chance to kick around various ideas, get to a level of comfort, perhaps once we've set aside roads with a solution, I can remind the body at a future date that we need to now start talking about the whole issue of provider rates, behavioral health, and K-12 education. That's my hope, one less long-term financial challenge. But I'd also tell you that I am not comfortable with the dollar amount and this is a reiteration of a comment I made yesterday. And here's one of the reasons I'm not

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comfortable with the dollar amount that's being talked about, other than some of the...an arguable concerns of where revenues may go. I listen, in my role previously, as well as my elected role, to people who talk about wastage in education, programs that aren't really necessary for our youth. How much we spend in programs that could be provided privately or shouldn't be underwritten by taxpayers. And I listen to people talk about welfare cheats or fraud and abuse in Medicaid by healthcare providers. I listen to all that and I ask, is there a parallel at all when it comes to the construction industry? As I said yesterday, I spent a whole day with two roads engineers and some of what I looked at spalling in the roads came from work that wasn't done well. Don't kid yourself. That industry isn't immune from not doing things well, doing things inappropriately. I'm not saying that there's broad cheating or mismanagement in the construction industry. I'm just saying, they too, as a large industry, I'm saying the Department of Roads as a large bureaucracy also can do things better, also have inefficiencies that could be corrected. And I think they should look, too, and I think there is some wiggle room in that that lends itself to being able to live with a lower dollar amount than the \$125 million we're talking about in a diversion annually. [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR GLOOR: It's something to consider. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Gloor. Those still wishing to speak, we have Senator Conrad, Nordquist, Krist, Price, Howard, and others. Senator Conrad, you're recognized. [LB84]

SENATOR CONRAD: Good morning, Mr. President and good morning, colleagues again. Just a little bit in terms of process here and tone because I think it has been such a civil and factual debate and I want it stay it that way. I've heard a lot of rumblings off mike that people are upset with the process or feel like they can't debate the issues at hand, and I fundamentally disagree with that. I think that we're moving forward in the

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best strategy that we can at this point in time when proponents have admitted that they refuse to negotiate, and so we'll just continue talking about the merits of the bill and the pending amendments. And I've also, you know, heard it, some rumblings over the last couple of days that, well, your legislative agenda is going to be held hostage because of your work on this bill in speaking out, and that's okay. Every senator has a right to decide how to pursue their votes and their strategies on any bill that is before us. And I just want to make clear that I'm committed to my legislative agenda, but I will not apologize for doing careful research and coming to a policy conclusion that is different than that of proponents. That's what we have, a simple policy disagreement. It's not personal. I really admire Senator Fischer and have learned more sitting by her in the last five years than I think I ever learned on the other side of the glass or watching the Legislature. And I'm excited to move forward in this debate because that's what we're here to do. We're here to debate, we're here to have a serious discussion, and we're here to talk about facts, and that's what I'm going to continue to do. So as to the discussions we started earlier with...the best information that we have available to us as the Legislature, comes from the Department of Revenue, the legislative Fiscal Office, and the Economic Forecasting Board. And who is on that Economic Forecasting Board? We've got Tom Henning of Kearney, Jerome Deichert of Omaha, Leslie Andersen of Bennington, Fred Lockwood of Scottsbluff, Laurence Lanphier of Omaha, Tonn Ostergard of Lincoln, Steve Ferris of Lincoln, Rick Kolkman of North Platte and Gerry Conway of Wayne. These citizens with significant expertise in business and economics worked tirelessly and hand in hand with our Department of Revenue and our legislative Fiscal Office so that we can have sound, unbiased information when making decisions about fiscal policy, budget policy, and the economic future of our state. As I noted earlier, we're utilizing their forecast for our budget now which estimates a revenue growth of 5.6 percent. They estimate that we will see in the upcoming biennium an increase of 4.2 percent in 2011, and an increase of 4.4 percent in 2012-13, with a five year average of 4.9 percent. I had a lot of questions about how the Forecasting Board worked and how it interfaced with our work in the Appropriations Committee, and so I actually did an interim study on this topic last year and want to thank the Fiscal Office

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and the Department of Revenue for helping us all, I believe, to issue a report about the validity and strength of our Nebraska Economic Forecasting Board. And I'm happy to provide a copy of it to anyone. It's pursuant to LR534 that I introduced last session and after extensive study and analysis of how our system works in comparison with other systems, and how the Economic Forecasting Board meets actual economic realities with their projections, let me just read a little bit from the report. Again the membership of the board... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR CONRAD: ...has to have a demonstrated expertise in the field of tax policy, economics, and economic forecasting. And these folks do. And on page six of the interim study report, here's the conclusion. The conclusion is inescapable...inescapable. The Nebraska Economic Forecasting Board has been making unbiased forecasts of the Nebraska General Fund receipts for the 21-year period analyzed. And the report goes on and on to demonstrate the success and validity of their work. And these are the best pieces of information we have available, and again we ask proponents, if you have other numbers that you are utilizing, please bring them to the debate. Please share them with the body because we need to have that information available to us. And if you don't have different numbers in terms of economic forecast, then I suggest you consider supporting the motion to recommit. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Conrad. Senator Nordquist, you're recognized. [LB84]

SENATOR NORDQUIST: Thank you, Mr. President and members. I'd like to echo Senator Conrad's points. Show me your numbers. If you have numbers that show we can get there, then show us that, and show us the rationale for those numbers because I haven't seen them. I haven't heard anyone from the Fiscal Office or anyone...any other member of the body say they have different numbers that show that we can afford this.

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Again like I said yesterday, this bill will write checks that the State Treasurer can't cash. We are going beyond our means. I know Senator Heidemann is over there in a conversation, I'd like to ask him a question. Senator Heidemann. [LB84]

SENATOR LANGEMEIER: Senator Heidemann, would you yield? [LB84]

SENATOR NORDQUIST: Sorry. Senator Heidemann, would you yield to a question? [LB84]

SENATOR LANGEMEIER: Senator Heidemann, would you yield to a question? [LB84]

SENATOR NORDQUIST: A couple of questions, actually. Sorry for interrupting your conversation. [LB84]

SENATOR HEIDEMANN: Yes. [LB84]

SENATOR NORDQUIST: Thank you. Senator Heidemann, we have been talking about the numbers and the projections. Have you seen any numbers out of the Fiscal Office or Forecasting Board that would show us having revenue growth to the point that would be required to pay for this legislation? [LB84]

SENATOR HEIDEMANN: Right now, we just use LFO numbers for the out-years. We will not receive that forecast until October of 2013. [LB84]

SENATOR NORDQUIST: That's right. And from the legislative Fiscal Office any numbers that would...have you seen any numbers that would show that we...that would meet that 8, 8.5 percent threshold we would need to pay for this? [LB84]

SENATOR HEIDEMANN: We're not at that point yet, Senator Nordquist, to be able to do that. [LB84]

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SENATOR NORDQUIST: But the Fiscal Office gives us their best projections for the next biennium, is that right? [LB84]

SENATOR HEIDEMANN: Using the capped historical average, yes. And that's where those revenue numbers come from. [LB84]

SENATOR NORDQUIST: Yeah. So with our best numbers that we have available to us at this point in time, we don't have anything that would show us numbers high enough, is that right? [LB84]

SENATOR HEIDEMANN: I think the number is 5.2. I don't have the financial status before me, but I believe it's 5.2. [LB84]

SENATOR NORDQUIST: Okay. Good. You often, when we have A bills before us, at least on the first one of the year, sometimes beyond that, you often stand up and explain the process. And depending on the situation, I've heard you express concern about affording or not affording something. Do you think...I haven't heard you express that yet, but do you have concerns about other standing committees earmarking, obligating, whatever you want to call it, appropriating funds two years out? No matter what that amount is, do you have concerns about that? [LB84]

SENATOR HEIDEMANN: I think every committee tries to protect their territory, Senator Nordquist. [LB84]

SENATOR NORDQUIST: Sure. I guess not on the issue of turf, but more on the issue of financial impact. If all committees started doing that, passing legislation that had an impact two years down the road, would you stand up and express your concern about that? [LB84]

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SENATOR HEIDEMANN: It's the normal path that we don't like to go down. [LB84]

SENATOR NORDQUIST: Okay. One other question. We had a lot of discussion yesterday about flexibility and some of the proponents of LB84 talked about this bill having flexibility, we can just come back and change it. Is it your understanding that this will be a flexible bill that as we're sitting in Appropriations and crafting our budget, that we'll be able to just pluck money in or move it around as needed, is that your understanding? [LB84]

SENATOR HEIDEMANN: It would be my understanding with 25 votes you can change anything, almost anything in here. So it would take 25 votes. [LB84]

SENATOR NORDQUIST: So LB84 is only as flexible as every other law we pass in this body? [LB84]

SENATOR HEIDEMANN: I think so, yes. [LB84]

SENATOR NORDQUIST: Great. Thank you very much, Senator Heidemann. I think those are some key points to consider, folks, that first of all, we don't have any projections that show us meeting this. If you have other projections that do, we'd love to see them. Secondly, you know, we hear people say...we've heard people on this floor say, I believe the money will be there, I believe the money will be there. [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR NORDQUIST: Well, I believe in the projections of the legislative Fiscal Office. I believe we're still coming out of a tough economic time and we don't have a lot of certainty. And I don't want to build a budget on hopes and dreams and prayers. I want to build a budget on the reality of the numbers that we have available to us. That's what I believe in. And for those members who are gone in two years that say, I believe the



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money is going to be there, I think we need to see a list from you. You're not going to be here in two years. Show us your cuts in two years. If this doesn't come to fruition, if these numbers aren't there, I want to see your cuts of where you want to cut. Because I've been sitting in that Appropriations Committee room, as eight of us have, eight others have, making deep cuts. I know you guys have all been on other committees on the LR542 process presenting deep cuts to us, that none of us appreciate doing, that hurt Nebraskans, that hurt children, that hurt seniors, that hurt disabled. I want to see your cuts if this money doesn't come in like you're saying it will. Show me your cuts. Thank you. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Nordquist. Senator Krist, you're recognized. [LB84]

SENATOR KRIST: Thank you, Mr. President and hello again, colleagues. Back to the point. We're discussing a recommit to committee, which I oppose. I think it came out of committee with enough thought and study. I think if you talk to Senator Fischer, she has been talking to key members, including the Chair of Appropriations, including the Chair of Education, including the Speaker, for some time, to put LB84 together. I would be remiss if I didn't say that I do believe in the concept of LB84. And as I've said on this mike before, I think the funding mechanism, the amount of money, the way that we have structured it may not be where we will be when we compromise on this issue down the road, but I'm just going to go ahead and say it. This tactical ploy to obstruct an intelligent discussion about the amendments that are pending is, in my mind, ludicrous. This is basically obstructing a discussion on the actual amendments that are pending. Now my initial thought was to ask Senator Utter, Senator Loudon, and everyone else to come up to this mike and talk about the pending amendments so we could discuss and let the citizens of Nebraska hear what those ideas were that we were discussing behind the mike in private. I'm not so sure that's what I will continue to do. If everyone who wants to speak in favor of going forward to LB84 turns their light off, and let's those that want to obstruct talk three times, and move on to the next priority motion and the next priority

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motion and the next priority motion, then let them do that. I've heard many references to the diplomacy and the political prowess of Senator Chambers. I am of an opposite mind. I believe that we are here for a job and I think obstructing the discussion on the amendments pending, and on the substantive value of LB84 as a discussion, is not in our best interest. I respect Senator Heidemann. We're going to miss him in a couple of years. He's not going to be here to help us in '13, but I've heard it. I don't need to hear it anymore. We don't have the money to do what's intended in LB84 as it exists, so let's get on with the discussion that talks about how we do what we do need to do for transportation. Let's talk about why our funding has been so low. I don't think it's a mystery. We came here in a special session and we cut our budget. Transportation, roads, and everyone else took their fair share of that cut and now we're behind. We have to, somehow, invigorate the roads, the reconstruction, the maintenance, and the construction of those roads. That is the substantive discussion that we need to get to. We don't have any money. We don't have any money. We don't have any money. I understand that and I understand we all took our cuts. Let's get to the substantive discussion of the underlying...of the amendments and the underlying bill. So tactically, allow the group that wants to obstruct those concrete discussions to do their thing, and let's move on and get to the amendments, and get to the real discussion here today, please. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Krist. Senator Price, you're recognized. [LB84]

SENATOR PRICE: Good morning, colleagues. Thank you, Mr. President. I'm...I was reluctant to rise to talk on the subject matter before us. Simply put, I support what we're trying to do in LB84. I support understanding that roads are important, that with improvement to roads, to bring them up to the quality and the standards that Nebraskans depend on and expect, there's an economic benefit that would help our state. It would help our state when, perhaps, large regional companies are looking for a place to move to, they have a great work force, great work ethic, a great family

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environment, advantageous costs for business, that they would move to Nebraska, relocate here. Move from states where unemployment is over 10 percent to a state where unemployment has been consistently lower than 5 percent to take advantage of that. But they're going to have to look at the roads. They're going to have to look at everything and maybe they don't choose it. And we put the roads back down a little bit further on the list, not to say that our one charge that has been commented on frequently, to fund education isn't important. It is important. But we have to strike a balance. So we're talking about roads. We're talking about the amount of money that has to go in. And colleagues, something that's perplexed me since last year's...last summer's meeting in Omaha, is how we're looking at putting more money into roads, and I don't see where we're taking the time to understand, why is it so expensive to build the roads? Have we looked at the business process? You know, it's my understanding, which could be imperfect and indefinitely not encompassing everything that is actually going there in the Department of Roads, but that we spread our roads money around in such a manner that we may be losing anywhere between 8 to 12 percent of our money just because we keep starting and stopping projects. Colleagues, what happens is, the project gets started we all drive the roads. We try to get out to our constituents and around the state and we'll see a project started in one area and then it's stopped. And another project started in one area and then it's stopped. When you...if you've done any program management, if you've ever had to manage money and projects, you know that there's a cost to starting a project. And then there's a cost to take that project down, to stand down. And then to move to another location, stand up another project. Run it, operate it, and then stand it down, and then go back to the first project. Why do we do that? If money is precious, why are we losing 8 to 12 percent of our total budget just to move money around? If we're truly serious, we'd look at some opportunities to be more efficient with our money. Isn't that what we told people when we were running for office, we'd find ways to be more efficient? So I want...last year I brought a bill to say, hey, let's look at the cost of building roads so when we buy heavy equipment, we'd look at the life cycle cost, the total cost of ownership, but that wasn't, you know, that wasn't to be dealt with. We don't want to look at how much it costs to

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build roads. We just want to put money into roads. So I have a great concern that we're looking only at a part of it. What we also haven't looked at is, what are we going to do...and I have a letter going to Senator Harms right now and to the Planning Committee, ladies and gentlemen, what are we going to do when diesel hits \$5 a gallon? [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR PRICE: Thank you, Mr. President. Not if, but when. Okay, so if we take it down to a logical conclusion, and let's say we start using more compressed natural gas. And let's say that the users of diesel convert a lot of their fleets to compressed natural gas, we don't tax that for our roads. Should a large trucking firm decide to go to compressed natural gas, the ones who do the damage to the roads and they're not using any fuel, and if not taxed, that's a great business boon. I'd advocate to change over because you could save a lot of money because you wouldn't have to pay the tax. (inaudible)...12 to 15 percent boon on your bottom line. But we haven't even begun to address, how are we going to tax compressed natural gas or other alternative energy whether they're electric cars or whatever. I would tell you that when the moment comes, that that fuel costs are like \$5 a gallon, and businesses are forced to make changes, they will make changes, and we will be left in the dust... [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR PRICE: ...wondering what happened. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Price. Senator Howard, you're recognized. [LB84]

SENATOR HOWARD: Thank you, Mr. President and members of the body. Since our discussion yesterday, starting up again this morning, I've been getting a lot of e-mails

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into my office and interestingly enough, so far there are 64 e-mails on this subject against LB84, and there's one person that has mailed in support of it here in Lincoln. So you may have a localized problem with your roads here that you want to look at. But I thought I would just share some of these with you because they're really meaningful. These are not just a patent sort of e-mail that's been sent. These are all individual and they're pretty straight to the point. Please vote no or vote to delay LB84 until the financial picture is clearer. Senator Jerry Warner used to say, the state needed to closely guard its sales tax base because there was only so much sales tax that the public will tolerate. The Legislature needs to find a dedicated fund for roads, but not use the funding source that pays for education, safety, and Health and Human Services, as well as others. Please vote no against LB84. This bill would rob the General Fund by diverting \$120 million or more for building roads. Building roads is not as important as building properly educated children who can make it in the world. Education must be our priority. Roads should be financed from their own funds as is presently done. General Fund money should remain in the General Fund for education. LB84 would severely reduce the availability of funds for education and Human Services for generations to come. Nebraska's road systems are better than most already. There is no need for another \$120 million to address roads as they're adequate now and our schools are not. Please do not support LB84. I really believe this is a choice between service to roads and to children and I prefer children. Diverting roads from Human...diverting funds from Human Services to road construction is shortsighted at best. When are we going to start encouraging Nebraskans to use their legs and the bus system to get around? Something that just might help end our independence on foreign oil. And speaking of shortsighted, cutting services to the poor will hurt who? The children can't vote yet, but who will make a big difference as to where this state and this country ends up in the future. Good and evil seem to be in all our battles lately, legislatively speaking. Please listen to your heart and fight this bill. Roads should be financed from their own funds as is presently done. A General Fund money should remain in the General Fund for education. LB84 would severely reduce the availability of funds for education and Human Services for generations to come. LB84 would reduce money available to

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state...for education which has already been cut by the current budget deficit. Educating our children and providing services to families are higher priorities than building new roads. LB84 would take money from the state's General Fund for the next 20 years and earmark it to build roads. It would take one-half cent of the sales tax for revenue, which is currently used for the state's other privatized spending needs and reduced funds available for such things as state education, paying for medical providers, providing Human Services and providing for correctional services. Road building should continue to be financed using current sources, not the General Fund. Please vote against LB84. And on it goes. And I'm not going to read... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR HOWARD: ...all of these to you. I, obviously, won't have time to read all of these to you, but the message is very clear to me. People are saying, do not use General Funds for this purpose. Do not rob from our other needs in the state. I, for one, am going to be mindful of these comments. I respond to each and every one of these e-mails. And just as a note, someone wrote me this morning and said, please allow the consumer to make their own decisions regarding the labeling of ethanol, which I appreciate the diversion from our current topic. But please listen to your constituent. Please heed what they have to say to you. Thank you. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Howard. Senator Mello, you're recognized. [LB84]

SENATOR MELLO: Mr. President and members of the Legislature. I've been very aware and very keen of hearing the proponents of LB84 discuss the logic and the focus of this piece of legislation in the last day and a half. But I find it a bit disturbing to hear that the main argument, so to speak, for it right now at least in floor debate, is that they're not able to talk about amendments that are currently in the queue. And while I respect Senator Carlson to the utmost, the argument that senators can't discuss the

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underlying purpose of a piece of legislation or discuss further amendments in the queue, is to some extent it's just not actual, it's just not factual, it's just not accurate. The fact is, we've talked about amendments. I've introduced an amendment I've talked on the mike three times yesterday. The reality is this, and if we want to have a policy debate on LB84, we don't have to have the actual amendment in front of us to have that policy debate. That is not how this...it's not how the Legislature works. That's maybe how it has worked in most policy debates we have, but it's not how our rules say we have to operate. It's not how I've seen other debates operate that way. We've discussed ideas all the time on this floor regarding issues that we are concerned about, throwing out concepts, changes, hypothesis. But we don't have the actual amendment in front of us to figure that out. I just want to make sure that, for the record, if people are concerned or have ideas that they want to discuss regarding LB84, mark your light and let's talk about it. We have the ability to do that. Everyone knows the rules in this body. I'm not the one who will call cloture on LB84 if we get to that point. I don't have the ability to. Neither does Senator Conrad. Neither does Senator Nordquist, Senator Council, Cook, Haar. So we want to have a debate, let's have a debate. We don't need to hide behind...attacking the process because we can't defend the underlying legislation. If you don't like the underlying legislation, say it. If you do, say it. If you have a better idea than what's in LB84, get on the mike, push your button, and let's discuss it. But to attack the process without offering the support for the underlying legislation, colleagues, that's disappointing. That's disappointing because we're better than that. We have better policy debates. We can disagree about underlying issues all the time, which we do. But the facts are these, the facts are, this is the largest earmark appropriation that we can find. This is the largest new government spending program that we have taken up as a Legislature in the last three years I've been here. These are the facts, colleagues. And if you disagree with the policy, then we can have that debate. If there's a better idea, I was contemplating reading Senator Fischer's amendment on the mike so we could have that debate if people want to have it. Because I know we can all read it on our computers. We can all discuss it. It eliminates bonding. It caps it at \$125 million of existing sales tax money. That's the amendment, colleagues. It changes

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the allocation from the cities and counties and gives more to expressways. That's the amendment. Let's debate it. Let's stop attacking the process and attacking those who are using the existing process that we've adopted as a Legislature to debate this issue. Because my underlying policy disagreements with LB84 is that we're putting... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR MELLO: ...together a budget that cuts almost a billion dollars, but yet we are falling over ourselves today to try to find a solution to solve a longstanding 20-year policy by adding a new spending program. That is what we are doing. We are gutting critical programs in our budget to the tune of almost a billion dollars, but we are falling all over ourselves to add a new spending program to the tune of \$2.5 billion. I fundamentally disagree with that policy and I will stand up on this mike for the next three to four days, if I have to, to reiterate that. It is bad public policy. It's bad fiscal policy. You've heard it from our Appropriations Chairman that we can't afford this. I don't think we can afford putting any General Funds right now into it. Why? Look at the status sheet. But to attack the process and attack those who are utilizing our ability to utilize the process that we voted on as a Legislature on the second or third day of the Legislature, that is out of order. Defend... [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR MELLO: ...defend your position. Defend the policy. Defend the underlying bill. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Mello. Those still wishing to speak, we have Senator Hadley, Cook, Ken Haar, Wallman, Conrad, and others. Senator Hadley, you're recognized. [LB84]

SENATOR HADLEY: Mr. President and members of the body. I appreciate being able



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to take a few minutes to talk with you. I want to just take a minute and talk to the citizens of Nebraska who are watching right now because I have a hunch that they're pretty confused about what's going on here. I hope they're not getting as confused with Washington, D.C. where gridlock seems to be the name of the game and filibustering is the way laws are put into effect and kept from being in effect. What's happening here is strictly legal by our rules here. But when you filibuster, you don't make new laws, you keep laws from being enacted. And I do take a little disagreement with Senator Mello. I think we ought to put some of these amendments up and talk about them and vote about them, but we can't because we're talking about a recommit to committee motion. Let's put the amendments up and vote them. Let's do that. The one thing about this plan, it's the first time, I think, in 20 years that we've had a long-range plan outside of TEEOSA come out of this body. The first time we've really taken a serious long-term look. And I think that's important. Would Senator Conrad yield to a question? [LB84]

SENATOR LANGEMEIER: Senator Conrad, would you yield? [LB84]

SENATOR CONRAD: Yes, of course. [LB84]

SENATOR HADLEY: Senator Conrad, I know we've worked together quite a lot on economic development, such as that. Do you believe a good road system is a part of an overall sound economic development plan for the state? [LB84]

SENATOR CONRAD: Absolutely, Senator Hadley, and I mentioned that numerous times yesterday and I'm happy to reiterate that today. And I...let me tell you how much I believe in it. I have stood shoulder to shoulder with Senator Fischer for five years in terms of improving our infrastructure financing systems and I've taken numerous political hits to defend that, and I stand by that work today. So my record on roads infrastructure is clear and I'm proud of it. [LB84]

SENATOR HADLEY: Okay. Thank you, Senator Conrad. You know, I wanted to make

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that point too. We talk a lot about education and funding education and obviously top priority, my top priority, everybody's top priority, Health and Human Services. But, folks in the state, where are you going to get the money to pay for it? Where are you going to get the money to pay for it? I go back to my three concepts. You can raise taxes, you can cut spending, or you can grow the economy. And one of the ways you grow the economy is to have an outstanding transportation system that gets the product from the place of production to market. Agriculture is our number one product, our number one industry in the state, and we need to have an outstanding road system to get that product from the farm to market so those agricultural land values are high, so that K through 12 school district can have those property tax revenues. If you want to cut the incomes out there because we have problems with infrastructure or roads, that does impact HHS and K through 12 education. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Hadley. Senator Cook, you're recognized. [LB84]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. I would like to reinforce some of the ideas that we talked about yesterday in terms of the importance, absolutely, of maintaining our infrastructure, which for Nebraska's history has been its roads, but also to reinforce that our only constitutional mandate is to support education in the common schools, which we have defined, from my understanding, as prekindergarten through the 12th grade. So my concern has been brought up in earlier debate and conversations, but I wanted to remind us of that constitutional commitment and to introduce the idea that if we have students, we have children and we have roads, if we don't have students that are educated to work in communities across the state then the investment in the repair or the creation of roads and expressways doesn't seem like a logical investment, because, as we've seen in years past, the young people move to urban centers, whether that is in Omaha or Lincoln, or they move to larger cities, Chicago or New York or San Francisco, and come back to visit but not necessarily live here and pay taxes here, whether that's sales,

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property, or income tax here, to go into that tax base. So I am anxious to begin debating on some of the other ideas, certainly not AM385, as it reads, or LB84, as it reads right now, but ones that we can agree on as policymakers maintains those core functions. And I would include provision for the poor and disabled and the elderly among those core provisions of government but also absolutely acknowledge that in 1988, which was a whole millennia ago, there was a plan put in place yet to be executed or reviewed and we need to do something now. With that, Mr. President, I would like to offer the remainder of my time to Senator Conrad, if she would like it. [LB84]

SENATOR LANGEMEIER: 2:20. [LB84]

SENATOR CONRAD: Thank you, Mr. President, and thank you, Senator Cook. And thank you, Senator Hadley, for allowing me the opportunity to reiterate my strong track record in support of improved resources and improved infrastructure financing for our roads system in Nebraska. We've taken those hard votes, we've taken the political hits for them, and I stand by them. But this goes too far. This is the wrong solution at the wrong time. And with that track record that I have established, I think that's a pretty powerful point of view. So let's talk about, colleagues, I hear rumblings on the floor that a cloture motion is coming forward, and that's okay. We can decide later whether or not we've had full and fair debate, and then we'll decide who's obstructionist and who's not after they decide whether or not to shut down debate on a bill that represents a significant change in our historical financing of critical human services--education and roads--which, by the way, we have a commitment to. We spent over \$1 billion on roads in Nebraska last year from all sources, a little less than \$700 million from the state's gas tax portion. So we're taking the largest earmark in Nebraska history over a period of 20 years and with the pending legislation, because it hasn't been amended yet, we're also authorizing \$500 million in highway bonds and debt service of \$25 million a year. So we're going to be authorizing debt service to pay for this on...and that's more...to the tune of \$25 million a year, which is more than we spend on some critical programs. So that's important to know. The current bond limit is \$50 million and that's a massage

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expansion of the debt allowance and it's not how we do things in Nebraska. We pay for roads. We pay for our obligations as we go, so that's important to remember. Nebraska pays for roads through our user fees. Members at the committee or testifiers and proponents at the committee level came in and said Nebraska's Highway Trust Fund is the envy of other states. This sound policy and system has served us well and proponents of this legislation acknowledge that. Business groups, labor groups, all of those across the spectrum agree that if we want to infuse resources into our transportation... [LB84]

SENATOR CONRAD: ...funding systems, we should do it through an increase user fees. We shouldn't... [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR CONRAD: We shouldn't do it by... [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR CONRAD: Oh, I'm sorry, was that time? [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR CONRAD: Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Conrad and Senator Cook. Senator Ken Haar, you're recognized. [LB84]

SENATOR HAAR: Mr. President, members of the body, I want to open my 5 minutes and close it with a quote from Abraham Lincoln who said, "We must not promise what we ought not, lest we be called on to perform what we cannot." And that's my concern

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with LB84. And, by the way, this is a discussion of LB84. If I were discussing how people should pay their use tax this year that might be nongermane, but we are discussing LB84, even though it's a recommit to committee motion. Senator Carlson, I do listen to you very carefully and I've taken lots and lots of notes during the discussion and I think you hit it on the head when you said what does LB84 do and your first point was it requires action. It requires action. Your second point, which I'll talk about later because it's very interesting, is we have to be creative solutions, and there's something now being talked about called vehicle miles traveled, which I think might be a solution to road funding in the future. But I think you hit it on the head when you said it requires action. My concern is that if LB84 goes through and we...it becomes a promise, again, without the fine print of if the revenues are there, roads will be financed, people will expect action. And just like with TEEOSA, when the formula is adjusted and is not allowed to be on autopilot because that would spiral out of control, when we try to adjust TEEOSA we hear from lobbyists all around the education circle that these are cuts, we're cutting TEEOSA. In fact, in my memory, the years I've been in the Legislature, we have not cut the general cash fund funding for TEEOSA. And I am just sure that if we pass LB84 that if the money is not there...again, remember when revenues are there roads will be financed, but if we don't we're going to be called cutting roads and we're all going to have to live with that and then we're going to have all the lobbyists with that concern talking to us about, oh, you're cutting roads. No, what I want to make clear in my testimony, and I will find out who said this, when revenues are there the roads will be financed. If that's the case, we need to make that very clear. This is not a promise of a funding level of such and such, \$125 million, whatever, for years to come, and that if the revenues are not there that we're cutting road funding. No, this is not a promise saying it's going to be there, that it's going to be on autopilot, that it's going to be there every year. It's there when revenues are there. And at least for me, roads are not the highest priority. Education is the highest priority. So I go back to, "We must not promise what we ought not, lest we be called on to perform what we cannot." And you can bet your next election that the voters will take this as a promise. And I would like to give the rest of my time to Senator Nordquist, should he want it. [LB84]

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SENATOR LANGEMEIER: Senator Nordquist, a minute ten. [LB84]

SENATOR NORDQUIST: Thank you, Mr. President and members. I have a number of points I'd like to make. First, I'd like to respond to Senator Hadley's comments about us being like D.C. You know, it's starting to feel a little bit like D.C. around here where we are talking about a \$2.5 billion earmark that we can't...that we don't have the revenue for, that we're putting off two years, and it's starting to feel like D.C. when the introducer of the bill in the paper says, I'm not willing to compromise any further. That's a lot like D.C. That's where we're at. Folks, we hear a lot about our road condition. I'm not saying that there aren't high priorities in the state. But according to a national survey, we've gone from 29th in road condition in 2000 to 5th in 2008. We're making great progress. We're ahead of a lot of other states. I'm not saying there's not needs but show me some studies which shows our health and human services are in that condition and our school funding is at that level. It's not. I distributed the list of cuts that we made in our preliminary budget so far. Besides schools and health and human services, we've also made other cuts that are going to be detrimental to our state: layoffs in the Fire Marshal's Office jeopardizing public safety; eliminating vacant positions in the Department of Revenue, where obviously it may be a good idea to have people minding the store there; same with the Liquor Control Commission; State Patrol, we're replacing... [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR NORDQUIST: ...General Funds with cash funds that aren't going to be there forever. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Nordquist and Senator Haar. Senator Wallman, you're recognized. [LB84]

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SENATOR WALLMAN: Thank you, Mr. President, members of the body. I think this is a very interesting discussion this morning, no matter which way you went for or pro, and I do appreciate Senator Fischer for doing something, getting off of dead center, because roads, I feel, myself, need repairs. Should we build roads better in the first place like Senator Gloor said? I live along Homestead Expressway. They spent quite a little money to fix it right away but we go by the cheapest bidder. So was it the contractors' fault? Was it our engineers? I don't know. So we can probably save money if we build better roads in the first place but if we're serious about this here thing, LB84, then let's put a half-cent sales tax on right now and pay for it as we should. And if we're serious about funding roads and not kicking the can down the road, then that's what we should do. I'd yield the rest of my time to Senator Conrad. [LB84]

SENATOR LANGEMEIER: Senator Conrad, 3:40. [LB84]

SENATOR CONRAD: Thank you, Mr. President, and thank you, Senator Wallman, for your comments and the time. Colleagues, just a quick point of clarification. It's been suggested by some that, gosh, we want to debate the amendments, we want to debate the bill but we can't. Well, I suggest that you turn your attention to Rule 2, Section 7 which outlines the parameters for any senator who's desiring to speak. Quote: When a member desires to speak in debate or to deliver any matter to the Legislature, he or she shall rise from his seat and respectfully address himself to Mr. or Madam President. A member shall speak only when recognized and confine their remarks to the question before the Legislature. Look at the board. What's the question before the Legislature? LB84, AM385, motion to recommit to committee. So there's the order of the day. Looking forward to hearing debate from other members as to why they think this is a good or bad bill, good or bad amendment, or a good or bad motion, to go back to the economic forecasting issues and some of the other process issues that have been brought forward, we're still waiting for answers to real questions that we don't bring lightly and we don't bring as a joke. Proponents say there's flexibility in this Legislature if the forecasts don't pan out. Where it is? What section? What amendment? What bill?

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I've read them time and time again; can't find that. Proponents have said the economy is going to see robust economic recovery; we're hopeful for that. Well, Senator Chambers used to say, if wishes were horses, beggars would ride, which I always thought was a really funny and illustrative quote. Well, we don't budget on a wish and a prayer. We budget on the economic forecast and the economic forecast is clear, the growth isn't going to be there. So are we really prepared to mortgage the future of our state because you don't want to hit your light and talk because the lobby asked you to take a pass on this? I came down here to fight for kids and for what I think is right, and that's what I'm doing and I'm proud to do it and I'm not going to apologize for it, and we'll keep talking about it as long as we can talk about it. But let's talk now a little bit more about the cuts that are in front of us right now with 5 percent, 5.6 percent revenue growth in the current biennium. Let's go through these cuts: cuts to the Legislative Council, cuts to the Supreme Court, cuts to the Governor's Office, the Secretary of State, the State Auditor, the Attorney General, the State Treasurer's Office, the State Department of Education. Let's talk about education cuts that are before us right now: reducing funds for one full-time employee for ARRA administration; annualizing... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR CONRAD: ...LB800, a loss there; retain funding for ARRA position six months; cease membership on the Education Committee of the States; eliminate LB1024; teacher certification investigation to cash funds, we're letting go our teacher investigation responsibilities out of General Funds; agency full-time employee reduction to the tune of \$1.2 million over the biennium; shifting our educational responsibilities away from the General Fund to lottery funds. Is that a sustainable solution? Is that going to be there in the future? Base adjustments on salary cuts, we're going to see cuts to maybe potentially the tune of 15 percent to K-12 education. What pressure does that put on property taxes right now and into the future? Shift additional activities to Education Innovation Fund; reduce aid to ESUs, educational service units,... [LB84]



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SENATOR LANGEMEIER: Time. [LB84]

SENATOR CONRAD: ...for core services, 5 percent cut. Thank you, Mr. President.  
[LB84]

SENATOR LANGEMEIER: Thank you, Senator Conrad. Senator Conrad, your light is next and you are recognized. [LB84]

SENATOR CONRAD: Great, thank you, Mr. President. Let's keep going through these cuts: Reduce aid to educational service units, which serve every single school district in the state of Nebraska, core services cut by 5 percent; reduce distance education to ESUs by 5 percent. We've made great strides in distance education in recent years in Nebraska because it's important for a state that's as geographically large and diverse as Nebraska and it helps smaller school districts get the same kind of educational opportunities as larger districts, but we're willing to make that cut right now with 5.6 percent growth in the revenue. We've got less growth on the horizon so imagine what the cuts will be then. Let's keep going through the cuts. Also in education, reduce aid to ESUs for technology infrastructure by 5 percent; reduce General Funds to vocational rehabilitation and maintenance efforts. These are educational opportunities to help disabled Nebraskans train for jobs. Okay, roads are more important than that. And I challenge you, when you go back to your districts, when you respond to your e-mails, when you respond to the phone calls that are coming in, what is your answer to your school board members, the parents, teachers, and children who attend those public schools, the disabled citizens in your district who depend upon these critical human services, the elderly in your districts who depend upon these critical human services? What's your answer: I'm sorry, I couldn't be there for you because the road bill was more important. That's what your votes will indicate. And unless you hit your light and start talking about it and explaining otherwise, there will be no record. So I'm interested to hear what...and, of course, each individual senator has a right to stand by their votes and explain their position to their citizens, but how are you going to explain that? Yeah,

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kids, yeah, vulnerable Nebraskans, I decided that we should move forward with a \$2.8 billion earmark, an unfunded mandate, and we'll figure out what scraps are left for you down the road. I don't think that's good state policy. I'm not going to apologize it and we're going to keep talking about it as long as I've got breath in my body and we're going to do it in a factual way. Where are the additional economic forecast results that have supposedly been presented to somebody that say otherwise? Still haven't seen those. Still haven't seen the section in the amendment or in the bill itself that says there's actual flexibility to fund this if we don't have...to defund this if we don't have the money. That's also not there. We say we have to do this so that the future of the state...so that the Roads Department can plan. But if the money is not there then we'll just pull the rug out from all of that planning in two years. That just doesn't even make common sense. No one has yet to address the serious legal issues which I've brought up, or I definitely haven't heard any parts of a response to those and if I missed it I'd be happy to talk with anybody about those off the mikes. How is this not in violation of the prohibition on legislative power that says we can't bind a future Legislature? It commits us to a course of action over a 22-year period. How is this not an illegal appropriation? This kind of activity should happen within the context of the budget. How is this not special legislation if we're carving out special funding for special projects in certain districts through the expressway? Those questions are not unique to me. They've been asked on similar pieces of legislation over many, many years, and those questions remain with this legislation. Thank goodness Nebraska has broad taxpayer standing available to its citizenry to challenge these kinds of issues in court because I think they deserve at least an answer. If nobody is willing in here...if nobody in here is willing to answer them that's why we have checks and balances and a separation of powers and maybe our courts will weigh in. [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR CONRAD: We've always had pay as you go in Nebraska for our infrastructure financing. The position that our state is in today has allowed us to be in a

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much, much more favorable position presently and to move into the future, because we've made fiscally conservative and fiscally responsible decisions throughout the course of this body. And when they're tough decisions, we still make them. This LB84 and the pending amendments turns the clock back and turns our back on this well-established public policy. It authorizes massive bonding. It authorizes massive earmarks that we can't pay for and we can't sustain. That's the wrong public policy for this state to move forward on and I sincerely believe this is the most important issue that has been presented... [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR CONRAD: ...to this body in my five years here. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Conrad. Mr. Clerk, an announcement? [LB84]

CLERK: Mr. President, the Revenue Committee will meet in Executive Session at 11:00 in Room 2022; Revenue at 11:00 in 2022. [LB84]

SENATOR LANGEMEIER: Continuing with discussion on the motion to recommit, those wishing to speak, Senator Campbell, you're recognized. [LB84]

SENATOR CAMPBELL: Good morning, Mr. President. I want to address some questions that have come to me off the floor and I thought that it might be best to share those answers with all of you, as I took a look at some research, and the questions had to do with what did Senator Gay and I use as our research on the bonding bill that we proposed last year and thought that might be helpful. I want to remind my colleagues of my favorite expression and that is roads are long-term planning and long-term financing. Senator Gay and I worked on finding the funds to put together what we called an

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infrastructure bank, which was a bonding proposal. Right now, not all of the fees and taxes go to the Highway Trust Fund, and that is a piece of the puzzle that has to be kept in to play. Some of the fees or a percentage of them go to cities and counties to try to help them with their infrastructure needs. Some of the taxes and fees go to schools and, in fact, I had asked when we were researching all of this how much that would add up to, and it adds up to \$120 million. Now in my wildest thoughts, all as I worked on roads, I kept thinking of a way in which you could move that money and then come up a way to keep the schools whole, because obviously these pieces become interrelated. So if you take one piece out, you need to keep in mind that it may affect others. And I could not, in all good conscience, just say, well, let's take the money away from schools and let them figure out. That's not good policy. That's not a good way to approach it, not when education is so important. So we began sorting through the sections of law on fees and taxes, and what we wanted to find was \$20 million to \$25 million to build, quote, an account that then, as we saved in this account, we could use to bond the money. We came up with eight components that were going to build our fund, and the eight components roughly came to about \$20 million. And I'll be glad to share the document with you. I've shared it with several senators. And what's interesting as I looked back, because yesterday I said, well, you know, maybe there's some really good ideas on that list, of that list of the eight components, four of them we had taken money from the General Fund, and I have to say I'd forgotten that. But just to tell you how intricate and the puzzle pieces fit together, the others were increased fees and, to give you an example, we increase the commercial driver's license fee; we increase the fee on Class O, M, and state ID fees; we increase the motor vehicle registration fee; we increase recreational vehicles fee. We increased several other fees actually within the court system to get to that. The purpose of my discussion with you all today is people have spent a lot of time trying to take all these puzzle pieces together over the years and put them together and find solutions. [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

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SENATOR CAMPBELL: If you are one of those people that are looking for solutions, keep in mind that not all the puzzle pieces are equal, not all of them go to support highways, and it is a complicated issue, not that you can't be the person that comes up with solving the puzzle from a different angle. But please do feel free to talk to me if you have some ideas and we'll share any of the research, but this is a very intricate, complicated puzzle to put together to find that long-term plan and that long-term financing. Thank you, colleagues. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Campbell. Senator Mello, and this is your third time. [LB84]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I appreciate Senator Campbell providing a little more feedback on LB982, which I thought was an innovative approach to looking at dealing with an infrastructure bank development in our state. And to some extent, I understand that that's part of LB84, which is not something that I ultimately have a significant concern about as much as the underlying aspect of the bill, which no matter...and I was discussing this with a colleague. Regardless, and I applaud Senator Utter, who also as myself has amendments that would provide an alternative path, so to speak, to look at road financing, it still takes General Fund dollars that we can't afford. Even if it's \$75 million compared to \$125 million, colleagues, we can't afford that. I don't know how to explain this in any other way beyond looking at your status sheet here, which is if you try to utilize General Fund dollars in two years, we do not have it. And colleagues who want to raise taxes or raise fees to finance road infrastructure, then they could put their amendment in. That would be my plea. If you have an amendment and you want to raise taxes or raise fees to provide for road infrastructure, then put your amendment in the queue. We have provided a solution that does not raise fees, does not raise taxes, and is good fiscal policy, understanding that we are in a structural imbalance in the next biennial budget. Interest groups or colleagues here on the floor who have bills in front of us who want to put more funding towards a program or want to create a new program, we have to consider all of these

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issues in front of us as we debate LB84, because we just had a debate last week on a bill Senator Utter brought that I have strong disagreement in which eliminates a program that really hasn't even started. But yet, we want to institute another program in two years from now that appropriates \$250 million for the biennium for ten bienniums. Colleagues, find a solution a longstanding issue, which, frankly, I think at the end of the day is still debatable of how this...how critical is this longstanding issue, will not be solved overnight. It won't be solved having debates on the floor regarding amendments. It will be solved when we have enough people introduce legislation who want to come to a table and say let's find a solution to this. That's how it will be solved. Fact is it could happen right now. If there were enough people who interested in doing this, they could do it. But, colleagues, I'm not one to support raising taxes right now. I'm not one to support raising fees right now, particularly when we're dealing with a budget that's \$956 million in the red the next biennium. I'm sorry. It's no offense to Senator Fischer or no offense to those who care about road infrastructure. I understand. We have our challenges in my district like everyone else does. But when we're eliminating critical programs, we're reducing funding to property tax related entities such as cities and counties, NRDs, school districts, I have a problem with that. And if you do not have a problem with that, that is where we can agree to disagree then. We do that all the time on this floor. But the reality is this, that we can't afford this bill. Those who want to find a solution, I urge you to go find a solution. We presented an alternative option. This is not an obstructionist, quote unquote, path we are taking. There's no one who's come to us and said, we want to discuss ideas, your idea let alone, because our idea... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR MELLO: ...is the only fiscally sound idea that's been presented. When you have a \$956 million budget deficit and you want to raise taxes or raise fees to solve a problem that right now is already getting \$40 million more in the upcoming budget, I question that logic--that is not logical--let alone all the other bills that we have in front of us that we've yet to even debate that wants to increase a fee here, wants to increase a

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fee there, wants to raise a tax here, wants to create a new program here. No one I've heard over the last two days has expressed any concern over our fiscal impact we have with this bill. We'll take care of it in two years if we don't have the money is the constant refrain I have heard. [LB84]

SENATOR LANGEMEIER: Time. Thank you, Senator Mello. Senator Cook, you're recognized. [LB84]

SENATOR COOK: Thank you, Mr. President. Good morning again, colleagues. I wanted to continue on the theme that I introduced earlier about the impact of a potential dip in sales tax to the General Fund, which as we all know goes to support our only constitutional obligation, and that is education in the common schools. And this is some information that was passed along from the Nebraska State Education Association and it reinforces what we know about the importance of the most basic level of education. A high school dropout earns about \$260,000, yes, less over a lifetime than a high school graduate and pays about \$60,000 less in taxes. Those of course would be...probably include income and sales tax. We lose \$192 billion, 1.6 percent of our GDP, in combined income and tax revenue with each cohort of 18-year-olds who never complete high school. The annual loss of federal and state income taxes associated with 23 million high school dropouts, that would include everybody within the ages of 18 to 67 years of age, is more than \$50 billion compared to what they would have paid if they had graduated. And the source for this is Teachers College symposium on educational equity at the Columbia University. Again, colleagues, we need to remember that while we are obligated to support our infrastructure, which in Nebraska has always...has heretofore been roads, to repair them and keep them safe, we certainly do not want to harm public education, public safety, and human services in the bargain. And with that, I will concede the remainder of my time to Senator Mello, if he would like it. [LB84]

SENATOR LANGEMEIER: Senator Mello, 2:45. [LB84]

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SENATOR MELLO: Thank you, Mr. President, members of the Legislature. And thank you, Senator Cook, for providing me time to continue where I was taking my debate and my argument, which was the lack of concern regarding the fiscal impact of this legislation. In all due respect, there's a number of colleagues in this body have heard on the mike multiple times talk about the fiscal conservatism, their view that government should do less, we should have more...we should have smaller government, less government, less taxes. But the silence is deafening to not hear anyone discuss a \$250 million appropriation in two years that, by all accounts, from our Appropriations Chair to other members, have stated we cannot afford without a tax increase or without a significant cut in a property tax funded entity like K-12 school districts or HHS or higher education. It's concerning in that sense that at times we're able to get on this floor and make an argument about our ideological views, our perspectives on fiscal and tax policy. But yet, when we have perhaps the biggest appropriation that we've dealt with in the last three years in front of us, no one is willing to stand up and have a debate regarding the fiscal impact of this or the tax policy of this. As I stated earlier, if LB84 gets to Select File, we will have the debate in regards to whether or not senators in this body feel that we should instead appropriate \$250 million to roads or whether or not we should appropriate that money to a property tax cut or an income tax cut or a corporate tax cut or eliminating Social Security and military benefits exemptions. We will have that debate, colleagues,... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR MELLO: ...because, frankly, I do not believe, in the fiscal times that we're in and hearing arguments that other members on this floor have made regarding their need for their program or we can't cut this program, that we're willing to put \$250 million in the budget in two years to pay for something that right now is getting a significant increase this biennial budget, because I think a tax relief program is much more important in two years than providing \$250 million to road infrastructure, knowing we



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have other ideas that are currently out there. So we will have that debate, I promise you, if LB84 gets to Select File, because I believe that is part of this debate. What is our priority as a Legislature, more government spending and new government programs? Or is it providing property tax relief? Is it providing income tax relief, providing relief to seniors... [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR MELLO: ...and those who have military benefits? Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Mello and Senator Cook. Senator Ken Haar, you're recognized and this is your third time. [LB84]

SENATOR HAAR: Thank you, Mr. President, members of the body. Again, from the "Quote Garden" on Google, "Promises are like babies: easy to make, hard to deliver." I'm sure that was said by a woman, (laugh) midwife probably. And then I want to proceed with another quote. This is by one of my favorite people of all time, Albert Einstein, because I try to simplify things so I can explain them and here's his quote on simplifying. He said, "Everything should be made as simple as possible but not simpler." "Everything should be made as simple as possible but not simpler." And this is, of course, the challenge that we all face. When we campaign, when we have a meeting with any constituent, any talk we have as an elected official or as a candidate is we have to be able to explain it to the constituent. And some people watch everything we do and read the bills, some read the newspapers and their summary, but for some people it's left up to me and to you to explain at the door what the promise is that we've made. So I've talked this morning and yesterday about what promise are we making with LB84 and I wonder if Senator Fischer...she's not here right now. I think...I've tried to go back and look at who said this: When revenues are there, roads will be financed. And I need to know if that's the promise we're making with LB84 or if there's more to the

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promise I think that Senator Carlson talked about of there will be action, there will be action on roads. And does that include there will be...this increased action every year because of LB84? I think it's really important that we know the promise we're making with LB84 because, again, when we go to the door, when we talk to people, they're going to expect us to be able to state the promise we made and they're going to be looking to the fact that we keep those promises. We can't...if the promise is there, we're going fund, we're going to do more road funding, and the fine print is "when the funds are there," and maybe roads aren't our top priority, we need to know that. We need to be clear about it. And I would give the rest of my time to Senator Nordquist, should he choose. [LB84]

SENATOR LANGEMEIER: Senator Conrad, 2 minutes. Oh, Senator Nordquist, excuse me, a minute 58. [LB84]

SENATOR NORDQUIST: Thank you, Mr. President and members. I know some folks are getting antsy and saying we're not talking about the bill. I don't know what I've been talking about for the last eight hours if it hasn't been the bill and the impact that it's going to have on our state. I mean I have a hard time, when we think back of the last couple years what we've debated in this body, we spent a couple hours on a bill for a \$9,000 fiscal note to create a guide for the Secretary of State. We spent several hours on a bill from Senator Cornett with a \$40,000 fiscal note. We're talking about a quarter of a billion dollars we're obligating here, folks. And some folks turn their lights on once, some none. I mean is that the...is that supposed to give us the impression and the public the impression that we're going to have this money available? Because according to what we have in front of us, we won't. And every group that's out there that relies on state dollars, whether it's nonprofit, service providers, the university, great institutions in the state that serve kids like Boys Town,... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

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SENATOR NORDQUIST: ...they're going to be taking cuts in two years when this goes into effect. That's the bottom line. I handed out the entire list, pages of cuts that we've had to make right now. This bill will perpetuate this every biennium by taking this money off the top. It's about priorities, folks. I don't know how many of you have introduced bills that had fiscal notes. I tried to limit them this year but I certainly had a few. Those aren't coming out here anytime soon, I mean years if this goes forward, years. We debate for hours in the last couple years bills with a few thousand dollar fiscal notes and we have people huffing and puffing about taking eight hours... [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR NORDQUIST: ...on a bill that has a quarter billion dollar fiscal note. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Nordquist and Senator Haar. Senator Schumacher, you're recognized. [LB84]

SENATOR SCHUMACHER: Thank you, Mr. Chairman. The last time something was made out of nothing was 13 billion years ago (laughter), and the guy who did it was considerably more talented than anyone in this room. We're spending or proposing to spend money that we don't have starting two years from now. And I ask myself, if this bill passes, can I go back to my district and look the people in the eye and tell them, you know, that road we want so bad between Schuyler and Fremont, it's a done deal? The money is going to be there, the plans are there. Now we don't know when because the Department of Roads is in charge of the schedule, whether it's a 5-year-out project or a 10-year-out project or a 15-year-out project. I know that on the blackboard they had at that meeting last summer it wasn't on the blackboard at all yet for design. But if I'm going to be honest with them I'm going to say, you know, I don't know if there's going to be money for those roads or not, because in two years, when we're looking at probably in all realistic projections no significant economic turnaround for the United States, and while agricultural economy may be spiffy here, we ride on the same boat as the United

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States. So we're looking at no great economic turnaround and when we're looking at no great surge in revenue and we're looking at no more reserve funds to bleed out, in fact, if we have any brains at all we'll have to be looking to restore some of the rainy day fund, I ask myself what are we accomplishing here. Yesterday I did suggest that if we were really serious about roads we would go to our bosses, the people, and say, folks, are you serious about roads and, if so, allow us to take advantage of unrealistically low interest rates promoted by the economic conditions right now and bond some money and build some key projects and realize that we may have to raise taxes to do that. If you're okay with that, folks, then let's get building roads. But right now I am sitting here listening to the folks, who have got a lot more seniority than I have, talk and wring their hands about what's going to go on and I've got to honestly say if we pass this thing I don't know what we've accomplished other than creating a hope and an illusion. And maybe that's a good thing to do. But, folks, I'd like to hear a lot more thoughts before we try to just spend the kind of money that we're talking about spending here and then unspend it in two years because we didn't think enough here. I yield any of my extra time, if there are any left, to Senator Conrad. [LB84]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Senator Conrad, you have 1 minute 50 seconds. [LB84]

SENATOR CONRAD: Thank you, Mr. President, and thank you, Senator Schumacher, for your excellent comments and for injecting a little levity in the debate, which I'm always a big fan of and every issue is deserving of. Colleagues, again, let's point to gravity. This is an earmark that's unfunded for 22 years, largest in the state history, three times as big as the revenue lost through LB775 and bigger than the infusion for stimulus dollars from the federal stimulus dollars directed to roads. I'm trying to get the exact figure on that but I think it was roughly \$230 million over a two-year period. This is \$140 million each year. So if you had...it's \$235 million, thank you. Thank you to my trusty aide. So if you had reservations about the big federal stimulus bill and its impact

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and what that did for debt, I hope you consider that when you decide how to vote on this bill because you're doing the same thing in Nebraska for a 22-year period. In some ways, it's heartwarming to see some of my colleagues from the other side of the aisle adopt this Keynesian approach to robust government economic developments. But all kidding aside, think about the gravity. Those are real numbers and we've got real cuts on the table right now and we're at the top of where we're going to be coming out of a recessionary period. We're not going to see the robust economic recovery that we need to make this work. And if we do, let's do it then. I'll be the first one to put in the bill. Or if we do, let's make sure we have the flexibility to address it. Let's do that with the substantive amendments. I'll tell you, I've heard from some folks that... [LB84]

SPEAKER FLOOD: Time, Senator. [LB84]

SENATOR CONRAD: Thank you, Mr. President. [LB84]

SPEAKER FLOOD: Thank you, Senator Conrad. Senator Council, you are recognized. (Visitors introduced.) Continuing with debate on LB84, Senator Council, you are recognized. [LB84]

SENATOR COUNCIL: Thank you, Mr. President. It seems from the time I was sworn in that with every piece of legislation that this body has been asked to consider, before it's been brought to the floor the fundamental consideration has to be whether it has any financial implications. And if it had financial implications, you had better go and talk with members of the Appropriations Committee to determine whether or not the funding source you had identified was available or whether the Appropriations Committee was willing to support through their process the funds that you would need to have appropriated to implement your particular piece of legislation. That's kind of been the order of the day, in my experience, since I've been here. Yet, here we are on LB84 and that kind of rule of thumb is, practically speaking, being thrown out the window, because what is being said is road infrastructure is a priority, doesn't matter what the

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Appropriations Committee says, even though the status document that has been prepared by the Appropriations Committee illustrates in no uncertain terms that we cannot afford what is being proposed in LB84. We simply cannot afford it. And when that has been determined, it's been my experience that those bills have not advanced. And Senator Nordquist talked about the bill that provided for \$9,000. I recall, I can't remember whose bill it was but it was to provide training to teachers on how to respond to youngsters who had anaphylactic shock or those types of asthma-related reactions, and it cost \$9,000 and it died on this floor. And here we are prepared to commit money that the Appropriations Committee shows that we do not have and it's being taken as lightly, in my opinion, as it is being taken. I chuckled yesterday when my colleague and good friend Senator Hadley made the statement that implied that TEEOSA was an earmark, and as we left the floor I chuckled. I said, I wish it were an earmark. I wish it were an earmark, because if it was an earmark then you need to appropriate \$960 million, because that's what the formula says is required this year to fund public education, according to the current state of the TEEOSA formula. But it's not an earmark, and because it's not an earmark we go in annually and make adjustments to the formula to meet the state's budgetary position. And that's what's being done now. Appropriations Committee, last I looked, was nowhere close to proposing \$960 million for state aid to public education. We're not, apparently, that concerned that Nebraska ranks 48th in terms of the percentage of state revenue to public education. But under LB84, if it is enacted, two years from now this body is going to have to look to determine, which certainly the Appropriations Committee amendments could be filed to reduce the amount,... [LB84]

SPEAKER FLOOD: One minute. [LB84]

SENATOR COUNCIL: ...but what expectations have we created? And that was the whole concern around the funding, state aid, to cities and counties. Oh my, if we leave the statutory language in there that says we can do it if two years from now our financial position looks better, we said, oh, we don't want to create any false hopes in the minds

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of cities and counties. But we're ready to create false hope in the minds of cities and counties when it comes to road funding, because, according to the Appropriations Committee and their hard work and the wisdom that we ordinarily defer to, this money will not be there. I have an amendment in the queue that if you're really serious about funding road infrastructure, then you have to give serious consideration to altering priorities. And Senator Schumacher, you know, referred to the Reserve, the rainy day fund. Well, we have some other funds that can be... [LB84]

SPEAKER FLOOD: Time, Senator. [LB84]

SENATOR COUNCIL: Thank you. [LB84]

SPEAKER FLOOD: Senator Howard, you are recognized. [LB84]

SENATOR HOWARD: Thank you, Mr. President and members of the body. And thank you, Senator Schumacher, for his words. He reminded me of something that I learned down here and conversations I've had with the Governor. I would come back from Chicago from visiting my daughter out there and I would have the opportunity to talk to the Governor and we would talk about the increase in costs, a 10.25 percent sales tax that they have on anything you buy in terms of clothing, toothpaste, things that you might need, and a 13.25 percent on soda, bottled water and things you might want. Candy is included. And he would say to me, this is a principle of sustainability. And I initially didn't quite get the idea of sustainability, but I sure do now, which is if you can't pay for it don't commit yourself to doing that--sustainability. And I'm going through this list that was handed out on the floor and I'm looking at all the things that we're not going to be able to sustain going forward and it just is amazing to me. We've got FTE downsizing in Agriculture, we've got two pages of reductions in the Health and Human Services System, provider rate reduction in behavioral health aid, Magellan behavioral health contract reduction of \$100,000. That at one time was supposed to be the answer to controlling costs for behavioral health. We'd have the Magellan group in there as our

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gatekeeper. Well, apparently they can do their business for \$100,000 less than they've been doing it. FTE reductions at the Youth Rehabilitation Center; reduce funds to the local health departments; eliminate WIC subcontractors; again, contract reductions. How is that going to fair with our privatization of child welfare services? Provider rate reductions again; case management, provider rate reductions; aid to the aging; eliminate the Railroad Council; reallocation of funds in water resources; reduction in force in water resources. Here's one that I've gotten a lot of contact from in recent weeks, the Arts Council, the Arts Council, they're going to reduce the expenses, the agency and the grant administration, reduce the administrative service position; elimination of organizational dues; reduce funding for Aid to the Humanities Council. So we've got the arts, we're cutting them way, way back. We've got the Library Commission. Why is it always the library takes a cut? Library, reduction in Library Commission personnel. That...I'm looking at this page after page after page and they're all cuts, and we're looking at committing ourselves to this amount of money? I'd say anyone that hasn't read this yet needs to. Anyone who has an agency that has any funding coming from the department or from the state of Nebraska needs to read this. I'm going to offer the remainder of my time to Senator Conrad. [LB84]

SPEAKER FLOOD: Senator Conrad, you have 1 minute 35 seconds. [LB84]

SENATOR CONRAD: Thank you, Mr. President, and thank you, Senator Howard, for your important comments and for the time. Kids...or colleagues, we're going to have an opportunity I think to decide who's afraid of having the debate, who's afraid of having more information, who isn't willing to answer serious questions here on the mike that have been put on the record and who is. And I hope you look into your heart and I hope you look into your head when you cast these important votes that are coming down the pike because I didn't knock on 8,000 doors in my last campaign to come down here and take orders from the lobby. You know why I came down here? To fight for kids education in our future. Look in the balcony. Look at the 4th graders that visit our proud institution each and every springtime. What's your answer to them? What's your answer



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to them? We haven't even heard you talk on the mike. We haven't heard you say, yes, government spending that we can't sustain is the best idea that we can move forward. I think Senator Mello, Nordquist, and myself have been real clear that we don't think this is the best way to move forward. The largest earmark in Nebraska history that can't be sustained and that mortgages the future of our children, our critical human services in our state is the wrong way to go. It's not personal; it's a policy issue. Attack the process, attack me, say you're disappointed in the way that the debate has happened. But you know what, I can only do the best that I can do with the rules that I have before me, and that's what I'm trying to do. [LB84]

SPEAKER FLOOD: Time, Senator. [LB84]

SENATOR CONRAD: Thank you. [LB84]

SPEAKER FLOOD: Thank you, Senator Conrad. Mr. Clerk, do you have a motion on the desk? [LB84]

CLERK: Mr. President, I have a motion. Senator Fischer, as primary introducer of LB84, would move to invoke cloture pursuant to Rule 7, Section 10. [LB84]

SPEAKER FLOOD: Mr. Clerk, it is the ruling of the Chair that the motion is in order, pursuant to Rule 7, Section 10 of the Rules of the Nebraska Legislature. Senator Fischer, for what purpose do you rise? [LB84]

SENATOR FISCHER: Mr. President, I would ask for a call of the house, please. [LB84]

SPEAKER FLOOD: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB84]

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CLERK: 37 ayes, 0 nays, Mr. President, to place the house under call. [LB84]

SPEAKER FLOOD: (Gavel) The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Janssen, Cornett, Senator Ashford, Senator Hansen, please check in or return to the floor. The house is under call. Senator Ashford, please return to the Chamber. The house is under call. Senator Ashford, the house is under call. Please return to the Chamber. Members, all members are present or otherwise accounted for. The house is under call. Please remain seated in your seats as we proceed to the vote on cloture. The first vote is the motion to invoke cloture. All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB84]

CLERK: 36 ayes, 12 nays, Mr. President, on the motion to invoke cloture. [LB84]

SPEAKER FLOOD: The motion to invoke cloture is adopted. Members, the next vote is on the motion to recommit LB84 to committee. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB84]

CLERK: 8 ayes, 37 nays, Mr. President, on the motion to recommit the bill to the Revenue Committee. [LB84]

SPEAKER FLOOD: The motion is not adopted. LB84 shall not be recommitted to committee. Mr. Clerk, the next vote will be on AM385. All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB84]

CLERK: 38 ayes, 8 nays, Mr. President, on the adoption of committee amendments. [LB84]

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SPEAKER FLOOD: AM385 is adopted. Mr. Clerk. We now proceed to LB84. Members, the question is, shall LB84 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, a record vote has been requested. Please record. [LB84]

CLERK: (Record vote read, Legislative Journal page 955.) 32 ayes, 8 nays, Mr. President, on the advancement of LB84. [LB84]

SPEAKER FLOOD: LB84 advances to E&R Initial. Mr. Clerk, items for the record. I do raise the call. [LB84]

CLERK: Mr. President, items for the record. Thank you. Your Committee on Judiciary, chaired by Senator Ashford, reports LB310 to General File with committee amendments attached. Enrollment and Review reports LB509, LB698, LB388, LB388A, LB606, LB283, LB407, all to Select File, some of which have Enrollment and Review amendments attached. Senator Pankonin offers LR142, Mr. President, which will be laid over at this time. Mr. President, a communication with respect to LR141 to be referred to Reference. And I have amendments to be printed: Senator Mello and Senator Council to LB84. (Legislative Journal pages 956-964.) [LB310 LB509 LB698 LB388 LB388A LB606 LB283 LB407 LR142 LR141 LB84]

Mr. President, a priority motion: Senator Heidemann would move to adjourn the body until Monday morning, March 28, at 10:00 a.m.

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. We are adjourned. (Gavel)